

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

FILED  
CIVIL ACTION  
NO. 05-11738-EFH

Brendan M. **McGUINNESS**,  
Plaintiff,

vs.

James R. **BENDER**, et al.  
Defendants.

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MOTION FOR COURT TO ORDER DISCOVERY  
AND FOR A RULING ON PLAINTIFF'S  
RENEWED MOTION FOR APPOINTMENT OF COUNSEL.

Now comes the plaintiff to respectfully request:

- 1.) that the Court order the Department of Correction to afford him an opportunity to view a copy of the video-tape of the 1/31/05 Move Team cell extraction which makes up the content of the original complaint; and
- 2.) that the Court rule on plaintiff's renewed motion for the appointment of counsel.

**The Video.**

The plaintiff requested that he be allowed to view the video in question several months ago, to which defense counsel agreed to have the staff at SBCC prison handle same. This was never carried out within a 45 day period, so plaintiff filed an internal grievance to speed things along.

In the meantime, plaintiff was returned to the newly-opened

DDU at Walpole (where he currently resides). Here, too, he has submitted a grievance. The Court should order the production to plaintiff by October 13, 2006.

### **Appointing Counsel.**

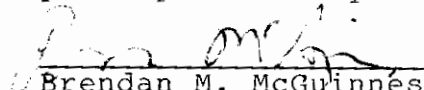
This Court has once before denied a request for counsel, though without prejudice. This case is complex. Plaintiff's inability to navigate the cat and mouse game of discovery is crippling him. (NOTE: defense counsel recently complained [in requesting more time to respond to interrogatories/requests for admissions] that plaintiff had fouled things up by putting them in the wrong-order, or mingling them.) If such a simple oversight requires months of extensions by competent counsel, then plaintiff needs counsel to avoid these errors, crystalize the matters for trial, and put them in the best light.

### **Conclusion.**

Trial is set for 1/2/07. Plaintiff objects to any continuances. The video is the crux of his beating claim. Counsel would be ideal in a case such as this where evidence of wrong-doing becomes more and more obvious with the passing of time.

WHEREFORE, this motion should be decided upon expeditiously.

*Sept.*  
DATED: ~~January~~ 27, 2006

  
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